

**ORDINANCE NO. \_\_\_\_\_**

**AN URGENCY INTERIM ZONING ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE EXTENDING THE MORATORIUM ON THE ESTABLISHMENT OF ANY "PLACES OF ASSEMBLY" IN INDUSTRIAL (M-S AND M-3) ZONING DISTRICTS AND ANY "AMUSEMENT AND RECREATIONAL USES" IN INDUSTRIAL (M-S AND M-3) ZONING DISTRICTS FROM MARCH 28, 2006, THROUGH AND INCLUDING APRIL 27, 2006, UNLESS EXTENDED BY FURTHER ACTION OF THE CITY COUNCIL**

WHEREAS, on September 20, 2005, the City Council of the City of Sunnyvale adopted Ordinance No. 2791-05, which established a 45-day moratorium on the establishment of any and all places of assembly in commercial and industrial (M-S, M-3, C-1, C-2, C-3 and C-4) zoning districts, and amusement and recreational uses in industrial (M-S and M-3) zoning districts, effective September 20, 2005, through November 4, 2005, unless otherwise extended by action of the City Council; and

WHEREAS, on October 25, 2005, the City Council of the City of Sunnyvale adopted Ordinance No. 2795-05, which extended the moratorium on the establishment of any and all places of assembly in commercial and industrial (M-S, M-3, C-1, C-2, C-3 and C-4) zoning districts, and amusement and recreational uses in industrial (M-S and M-3) zoning districts until March 31, 2006, unless otherwise extended by action of the City Council; and

WHEREAS, in 2004, in conjunction with adoption of the Downtown Specific Plan, the City Council of the City of Sunnyvale adopted a new two-pronged definition for "Places of assembly" in its zoning code to clarify certain uses. "Places of assembly – business serving" means permanent headquarters and meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, such as business associations, professional membership organizations, labor unions and similar organizations. "Places of assembly – community serving" means permanent headquarters and meeting facilities for civic, social and fraternal organizations (not including lodging), political organizations and other membership organizations. This category includes religious uses and facilities operated for worship; promotion of religious activities, including houses of worship and education and training; and accessory uses on the same site, such as living quarters for ministers and staff, and child day care facilities where authorized by the same type of land use permit required for the primary use; and

WHEREAS, on March 21, 2006, the City Council introduced an Ordinance (No. 2802-06) which creates a new POA Combining District for certain properties in the M-S zoning district, provides locational criteria for places of assembly and recreation uses in certain commercial (C-1, C-2 and C-3) zones, and refines definitions and modifies zoning tables in order to implement an overall strategy for reviewing and permitting places of assembly and amusement and recreational uses, and

WHEREAS, Council is scheduled to consider adoption of the Ordinance (No. 2802-06) on March 28, 2006, and if adopted, the Ordinance (No. 2802-06) would become effective on April 27, 2007, and staff therefor recommends that the current moratorium now in effect be extended, for industrial areas only, to April 27, 2006; and

WHEREAS, due to the recent economic downturn, the value of commercial and industrial-zoned land in the City has decreased below that of commercial and industrial uses, thus allowing untraditional uses (recreational/places of assembly) the opportunity to operate in locations that historically have not been economically feasible; the City has received a large number of recent applications for use permits to allow such uses in these districts; and

WHEREAS, if places of assembly are allowed to locate in industrial districts and amusement, and recreational uses are allowed to locate in industrial districts, without appropriate regulation, such uses might be established in areas that would conflict with the requirements of the General Plan, be inconsistent with surrounding uses, or be detrimental to the public health, safety and welfare; and, further, if such uses were allowed to proceed under current zoning, such uses could conflict with and defeat the purpose of the proposal to study and adopt new regulations regarding the location of places of assembly and recreational uses in industrial zones; and

WHEREAS, the City is currently proceeding with the aforementioned study and anticipates it will be concluded during the first part of the 2006 calendar year; and

WHEREAS, this ordinance is adopted pursuant to the requirements of Government Code section 65858.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. FINDING. The City Council of the City of Sunnyvale hereby finds and declares that there is a need to extend the interim ordinance establishing a moratorium on all new places of assembly and amusement and recreational uses in industrial zoning districts within the City of Sunnyvale so that it can complete its study on this issue. The City has recently received numerous inquiries regarding the establishment of such uses in these zoning districts. If these uses are allowed to be located in industrial districts without appropriate review of location and operational criteria and standards, they could have potential adverse effects on surrounding areas because they might be established in areas that would conflict with the requirements of the General Plan, be inconsistent with surrounding uses, or be detrimental to the public health, safety and welfare. The City finds that if such uses are allowed to proceed under current zoning, they could conflict with and defeat the purpose of the proposal to study and develop new regulations regarding the location of places of assembly in industrial zones. Failure to extend the moratorium during the stated period may result in significant irreversible change to the character of the subject zoning districts. Based on the foregoing, the City Council does hereby declare this extension of the interim ordinance is necessary to protect the public health, safety, and welfare while considering revisions to the zoning regulations related to places of assembly and amusement and recreational uses in industrial districts.

SECTION 2. MORATORIUM. The City Council hereby extends the moratorium on the establishment of any and all places of assembly in industrial (M-S and M-3) zoning districts and amusement and recreational uses in industrial (M-S and M-3) zoning districts, until and through April 27, 2006, unless otherwise extended by action of the City Council; and

SECTION 3. CEQA. The City Council hereby determines that this ordinance is exempt from environmental review under the California Environmental Quality Act because it can be seen with certainty it will not have a significant effect on the environment. (CEQA Guideline 15061(b)(3).)

SECTION 4. EFFECTIVE DATE. This interim ordinance shall be in full force and effect upon its adoption.

SECTION 5. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official newspaper of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced and adopted as an urgency ordinance at a regular meeting of the City Council held on \_\_\_\_\_, 2006, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
(SEAL)

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
David E. Kahn, City Attorney